761551N25A - SH-AD-32A

COUNTY OF LOS ANGELES
SHERIFF'S DEPARTMENT
A Tradition of Service

DATE: October 22, 2012
FILE NO:

OFFICE CORRESPONDENCE

FROM: MICHAEL J. ROTHANS, COMMANDER
FIELD OPERATIONS REGION III

TO: MERRILL E. LADENHEIM, CAPTAIN
LAKEWOOD STATION

SUBJECT: EXECUTIVE FORCE REVIEW COMMITTEE FINDINGS:

Case Number:	SH2303930
Incident:	Hit Shooting
Incident Date:	December 28, 2011
Unit:	Lakewood Station / FOR III
Suspect:	Joseph Robert Guevara, M/22
Involved Employees:	Deputy Joseph Esqueda, #[redacted] Deputy Victor Fernandez, #[redacted]
EFRC Date:	October 22, 2012

The Executive Force Review Committee consisting of Commander Michael Rothans, Commander David Fender and Commander Buddy Goldman met and reviewed the above case.

FINDINGS:
Based on the deputies pursuing a burglary suspect, and that suspect being armed with a handgun which he fired at the deputies, the Committee determined the force used by Deputy Esqueda and Deputy Fernandez by returning fire at the suspect was objectively reasonable and in compliance with Department Policy. The Committee also determined the tactics used by these deputies were within the Department's training standards.

RECOMMENDATIONS:
The Committee recommended that Deputy Esqueda and Deputy Fernandez attend the eight hour Tactics and Survival training, class 1. In addition, the Committee recommended the unit commander, Captain Merrill E. Ladenheim, conduct a tactical debriefing with the involved deputies regarding this incident.

MJR:JER:jer

TABLE OF CONTENTS
SH#2303930

Los Angeles County Sheriff's Department
Officer Involved Shooting

Report Date: 12-30-11	Bureau/Station/Facility: Lakewood Station	Admin. Invest.? ☐	Hit? ☒

Incident Information

URN: 011-25564-1335-055	Date: 12-28-11 Time: 1630
City or Station: Bellflower	Nature of Incident: See Attached Summary
Location: [redacted] Oak Street	

Location Type (*circle one or more*):	Lighting (*circle only one*):	Incident Type (*circle one or more*):	Initiated by (*circle only one*):
Backyard	Darkness	Accidental	Arrest Warrant
Beach	Daylight	(Armed Person)	(Call)
Business	(Other)	(Fleeing Suspect)	Observation
Freeway	Street Lights	(Foot Pursuit)	One Person Unit
Industrial		Gun Take Away	Other
Park	**Weather** (*circle only one*):	Moving Vehicle	Search Warrant
Parking Lot	(Clear)	Sniper/Ambush	Two Person Unit
(Residence)	Cloudy	Startle	
Rural	Fog	Struggle Involved	**Prior Activity** (*circle only one*):
School	Rain	Traffic Stop	(Detective)
Street		Unarmed Person	Inmate Transport
Other: Front Yard	Distance: 30-40 feet	Unintentional	Other
		Vehicle Pursuit	Routine Patrol
		Warrant Service	
Total # of Shots Fired by Deputy: Deputy Esqueda - 15 Shots, Deputy Fernandez - 20 Shots	Total # of Shots Fired by Suspect: 1-3 Shots	Warning Shot	Aero Unit? ☐ Canine Unit? ☐
		Other:	

Employee Witnesses

Employee #	Last Name	First Name	M.I.	ShiftTime (*circle only one*):	ShiftType (*circle only one*):
				EM PM Day	Regular Overtime Off Duty
				EM PM Day	Regular Overtime Off Duty
				EM PM Day	Regular Overtime Off Duty

Non-Employee Witnesses

Last Name [redacted]		First Name [redacted]		M.I.	
Street Address [redacted]	City [redacted]	Zip Code [redacted]	Work Ph [redacted]	Home Ph	
Last Name [redacted]		First Name [redacted]		M.I.	
Street Address [redacted]	City [redacted]	Zip Code [redacted]	Work Ph [redacted]	Home Ph	
Last Name [redacted]		First Name [redacted]		M.I.	
Street Address [redacted]	City [redacted]	Zip Code [redacted]	Work Ph [redacted]	Home Ph	

Supervisors

Employee #	Last Name	First Name	M.I	(*circle one or more*):
[redacted]	Butao	Oscar		(On Duty) / Present during shooting / Witness to shooting / Involved in shooting
				On Duty / Present during shooting / Witness to shooting / Involved in shooting

Watch Sergeant

Employee #	Last Name	First Name	M.I.
[redacted]	Bishop	Brian	

Watch Commander

Employee #	Last Name	First Name	M.I.
[redacted]	Lindblom	Eric	R

PSTD Use Only
SH # 2303930

Officer Involved Shooting

URN: 011-25564-1335-055

Rollout Information

Arrival Date	Arrival Time	Date Submitted	Date of Recommendation
12-28-11	1736	06-12-12	

Employee #	Last Name	First Name	M.I
[redacted]	Fredericks	Stefanie	
[redacted]	Flores	Carlos	
[redacted]	Grote	Dinah	

Shooting / Force Information

Method

(AW) Arwen
(BC) Baton:(Control)
(BI) Baton:(Impact)
(BF) Bodily Fluids
(CN) Canine
(CR) Carotid Restraint
(CH) Choke Hold
(CT) Control Holds:(Control Techniques)
(TT) Control Holds:(Team Takedown)
(TD) Control Holds:(Takedown)
(CE) Chemical
(OC) Chemical Agents (OC Spray)
(TG) Chemical Agents (Tear Gas)
(EX) Explosives
(FH) Firearm (Handgun)
(FR) Firearm (Rifle)
(FS) Firearm (Shotgun)
(FO) Firearm (Other)
(FB) Flashbang
(FL) Flashlight
(OE) Other Weapon: Edged
(OV) Other Weapon: Vehicle
(OB) Other Weapon: Blunt Object
(OO) Other Weapon: Other
(PK) Personal Weapon: Feet/Leg: (Kick)
(PS) Personal Weapon: Feet/Leg: (Sweep)
(PH) Personal Weapon (Hand/Arm)
(PP) Personal Weapon (Push)
(PO) Personal Weapon (Other)
(RS) Resistance
(CN) Restraint Device (Capture Net)
(RH) Restraint Device (Handcuffs)
(HB) Restraint Device:Hobble (Legs Only)
(TP) Restraint Device:Hobble (TARP)
(RE) Restraint Device: REACT Belt
(SP) Sap
(SH) Shield
(SG) 37mm Stinger
(SB) Sting Ball
(ST) Stun Bag
(TR) Taser
(UC) Uncooperative

Type of Injury

(AB) Abrasion
(BR) Bruise
(BU) Burn
(CP) Complaint of Pain
(CO) Concussion
(DH) Death
(DI) Dislocation
(DB) Dog Bite
(FR) Fractures
(GS) Gunshot
(HB) Human Bite
(LC) Lacerations
(ND) Nerve Damage
(OD) Organ Damage
(PA) Paralysis
(PW) Puncture Wound
(SD) Soft Tissue Damage
(ST) Sprain/Twists
(UN) Unconscious
(RM) Refused Med Treatment
(NN) NONE

Body Part Injured

(AD) Abdomen
(AK) Ankle
(AR) Arm
(BK) Back
(BT) Buttocks
(CH) Chest
(EL) Elbow
(FA) Face
(FE) Feet
(FI) Fingers
(GE) Genitals
(GR) Groin
(HD) Hand
(HE) Head
(HI) Hip
(IN) Internal
(KN) Knees
(LE) Leg
(NK) Neck
(SH) Shoulder
(WR) Wrist

Brand

(AK) AK-47
(BN) Benelli
(BR) Beretta
(BW) Browning
(CH) Charter Arms
(CO) Colt
(DA) Davis Industries
(GL) Glock
(HA) Harrington & Richardson
(HI) Hi Standard
(HK) H & K
(IT) Ithica
(IV) Iver Johnson
(JE) Jennings
(LO) Lorcin
(LU) Luger
(MA) Marlin
(MO) Mossberg
(NC) NCI aka SKS
(NA) North American
(NO) Norinco
(RA) Raven
(RM) Remington
(RG) RG
(RI) RGI
(RO) Rossi
(SW) Smith & Wesson
(SR) Sturm Ruger
(ST) Sterling
(TA) Taurus
(WE) Weatherby
(WN) Winchester
(US) US Government
(YY) Handmade (Inmate)
(XX) Homemade (Non-Inmate)
(ZZ) Other Brand

Caliber

(9) 9 mm
(10) 10 mm
(12) 12 guage
(20) 20 guage
(21) .22-250
(22) .22 caliber
(23) .223 caliber
(24) .243 caliber
(25) .25 caliber
(30) .308 caliber
(35) .357 caliber
(36) 30-60 caliber
(38) .38 caliber
(40) .40 caliber
(41) .410 guage
(44) .44 caliber
(45) .45 caliber
(50) 50 mm
(SL) Slug
(WW) Other caliber

FORCE APPLIED *(one code per block)*

Used By (E# or S#)	Used Against (E# or S#)	Method (Code)	Brand (Code)	Caliber (Code)	Authorized Weapon? (Y/N)	Authorized Ammunition? (Y/N)	Type of Injury (Code)	Body Part (Code)
S#1	E#1	FH	ZZ	38	N	N	NN	NN
E#1	S#1	FH	BR	9m	Y	Y	GS	AD
E#2	S#1	FH	BR	9m	Y	Y	GS	AD

Officer Involved Shooting
Involved Employee Information

URN: 011-25564-1335-055

Involved Employee

E 1

Employee # [redacted]	Last Name: Esqueda	First Name: Joseph	M.I.
Sex: M Race: Hispanic	Rank: Deputy	Unit Assignment: Lakewood Station	Work Assignment (Unit #, Module, etc.): 133
ShiftTime (*circle only one*): EM (PM) Day	ShiftType (*circle only one*): (Regular) Overtime Off Duty	Intoxication/Drug Usage? ☐	Substance Used:
Hospital Admission? ☐	Hospital Name:	Coroner Case? ☐	Coroner Case # / Interviewed? ☒
Hrs of sleep prior to shooting: Unknown	Duty Time (hrs): [redacted]	Clothing (*circle only one*): Plain Clothes no Vest, Plain Clothes w/ Vest, Raid Jacket no Vest, Raid Jacket w/ Vest, Uniform no Vest, (Uniform w/ Vest)	Other Factors:
Age: [redacted] Height: 601	Weight: 190		
Range Qualification Date: [redacted]	PPC Qualification Date: [redacted]	Laser Training Date: [redacted]	
Certified with Weapon Used? [redacted]	Patrol Certification? [redacted]	Certification Unit: [redacted]	Prior Shootings? [redacted] Number of Prior Shootings: [redacted] Directed Force: [redacted]
Weapons Fired Brand: Beretta	Caliber: 9MM	# Shots: 15	Weapons Fired Brand: Caliber: # Shots:
Field Training Officer Emp # [redacted]	Last Name [redacted]	First Name [redacted]	M.I.
Field Training Officer Emp # [redacted]	Last Name [redacted]	First Name [redacted]	M.I.

E 2

Employee # [redacted]	Last Name: Fernandez	First Name: Victor	M.I.
Sex: M Race: Hispanic	Rank: Deputy	Unit Assignment: Lakewood Station	Work Assignment (Unit #, Module, etc.): 133T1
ShiftTime (*circle only one*): EM (PM) Day	ShiftType (*circle only one*): (Regular) Overtime Off Duty	Intoxication/Drug Usage? ☐	Substance Used:
Hospital Admission? ☐	Hospital Name:	Coroner Case? ☐	Coroner Case # / Interviewed? ☒
Hrs of sleep prior to shooting: 5-8	Duty Time (hrs): [redacted]	Clothing (*circle only one*): Plain Clothes no Vest, Plain Clothes w/ Vest, Raid Jacket no Vest, Raid Jacket w/ Vest, Uniform no Vest, (Uniform w/ Vest)	Other Factors:
Age: [redacted] Height: 509	Weight: 200		
Range Qualification Date: [redacted]	PPC Qualification Date: [redacted]	Laser Training Date: [redacted]	
Certified with Weapon Used? [redacted]	Patrol Certification? [redacted]	Certification Unit: [redacted]	Prior Shootings? [redacted] Number of Prior Shootings: [redacted] Directed Force: [redacted]
Weapons Fired Brand: Beretta	Caliber: 9MM	# Shots: 20	Weapons Fired Brand: Caliber: # Shots:
Field Training Officer Emp # [redacted]	Last Name [redacted]	First Name [redacted]	M.I.
Field Training Officer Emp # [redacted]	Last Name [redacted]	First Name [redacted]	M.I.

E__

Employee #	Last Name	First Name	M.I.
Sex: Race:	Rank	Unit Assignment:	Work Assignment (Unit #, Module, etc.):
ShiftTime (*circle only one*): EM PM Day	ShiftType (*circle only one*): Regular Overtime Off Duty	Intoxication/Drug Usage? ☐	Substance Used:
Hospital Admission? ☐	Hospital Name:	Coroner Case? ☐	Coroner Case # / Interviewed? ☐
Hrs of sleep prior to shooting:	Duty Time (hrs):	Clothing (*circle only one*): Plain Clothes no Vest, Plain Clothes w/ Vest, Raid Jacket no Vest, Raid Jacket w/ Vest, Uniform no Vest, Uniform w/ Vest	Other Factors:
Age: Height:	Weight:		
Range Qualification Date:	PPC Qualification Date:	Laser Training Date:	
Certified with Weapon Used? ☐	Patrol Certification? ☐	Certification Unit:	Prior Shootings? ☐ Number of Prior Shootings: Directed Force: ☐
Weapons Fired Brand:	Caliber	# Shots	Weapons Fired Brand: Caliber # Shots
Field Training Officer Emp #	Last Name	First Name	M.I.
Field Training Officer Emp #	Last Name	First Name	M.I.

See Other Side

Officer Involved Shooting
Suspect Information

URN: 011-25564-1335-055

Suspect Information

S 1

Last Name: Guevera	First Name: Joseph	M.I.:
AKA Last Name: "Scrappy" "Payaso"	First Name:	M.I.:

Sex: M Race: Hispanic	Street Address: 8819 Oak Street	City: Bellflower	State & Zip Code: Ca 90706
Work Phone: [redacted]	Home Phone: [redacted]	Social Security #: [redacted]	Driver's License #: [redacted]
Age: 21 D.O.B. 03-05-89	Height: 504 Weight: 156	FBI #: [redacted]	CII #: [redacted]
Booking # 3012349	Primary Charge: 664/187 PC	Secondary Charge:	
Coroner Case? ☐	Coroner Case #	Intoxication/Drug Usage? ☒	Substance Used: Methamphetamine
Armed? ☒	Apprehended? ☒	Mental Illness? ☐	Criminal History? [redacted]
Vehicle Make: N/A		Model:	Year:

S__ (Blank)

Last Name:		First Name:	M.I.:
AKA Last Name:		First Name:	M.I.:
Sex: Race:	Street Address:	City:	State & Zip Code:
Work Phone:	Home Phone:	Social Security #:	Driver's License #:
Age: D.O.B.	Height: Weight:	FBI #	CII #
Booking #	Primary Charge:	Secondary Charge:	
Coroner Case? ☐	Coroner Case #	Intoxication/Drug Usage? ☐	Substance Used:
Armed? ☐	Apprehended? ☐	Mental Illness? ☐	Criminal History? ☐
Vehicle Make		Model:	Year:

S__ (Blank)

Last Name:		First Name:	M.I.:
AKA Last Name:		First Name:	M.I.:
Sex: Race:	Street Address:	City:	State & Zip Code:
Work Phone:	Home Phone:	Social Security #:	Driver's License #:
Age: D.O.B.	Height: Weight:	FBI #	CII #
Booking #	Primary Charge:	Secondary Charge:	
Coroner Case? ☐	Coroner Case #	Intoxication/Drug Usage? ☐	Substance Used:
Armed? ☐	Apprehended? ☐	Mental Illness? ☐	Criminal History? ☐
Vehicle Make		Model:	Year:

S__ (Blank)

Last Name:		First Name:	M.I.:
AKA Last Name:		First Name:	M.I.:
Sex: Race:	Street Address:	City:	State & Zip Code:
Work Phone:	Home Phone:	Social Security #:	Driver's License #:
Age: D.O.B.	Height: Weight:	FBI #	CII #
Booking #	Primary Charge:	Secondary Charge:	
Coroner Case? ☐	Coroner Case #	Intoxication/Drug Usage? ☐	Substance Used:
Armed? ☐	Apprehended? ☐	Mental Illness? ☐	Criminal History? ☐
Vehicle Make		Model:	Year:

See Other Side

SUPPLEMENTAL NON-EMPLOYEE WITNESSES
Los Angeles County Sheriff's Department

Non-Employee Witnesses

Last Name	First Name	M.I.	Street Address	Zip Code	Work Ph	Home Ph
[redacted]	[redacted]		[redacted]	[redacted]	[redacted]	
[redacted]	[redacted]		[redacted]	[redacted]	[redacted]	
[redacted]	[redacted]		[redacted]	[redacted]	[redacted]	
[redacted]	[redacted]		[redacted]	[redacted]	[redacted]	



LOS ANGELES COUNTY DISTRICT ATTORNEY'S OFFICE
BUREAU OF FRAUD AND CORRUPTION PROSECUTIONS
JUSTICE SYSTEM INTEGRITY DIVISION

STEVE COOLEY • District Attorney
JACQUELYN LACEY • Chief Deputy District Attorney
PATRICK R. DIXON • Assistant District Attorney

JANICE L. MAURIZI • Director

May 3, 2012

Captain David Smith
Homicide Bureau
Los Angeles County Sheriff's Department
5747 Rickenbacker Road
Commerce, California 90040

RE: J.S.I.D. File No. 11-0822
L.A.S.D. File No. 011-25564-1335-055

Dear Captain Smith:

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the December 28, 2011, non-fatal shooting of Joseph Guevara. It is our conclusion that Deputies Joseph Esqueda and Victor Fernandez acted in lawful self-defense and defense of another.

The following analysis is based on reports prepared by the Los Angeles Sheriff's Department (LASD), submitted to this Office by Detective Steve Blagg, LASD Homicide Bureau. The District Attorney's Command Center was notified of the shooting on December 28, 2011, at approximately 7:15 p.m. The District Attorney Response Team (DART), comprised of Deputy District Attorney Paul Nunez and District Attorney Senior Investigator Jeffery Scott, responded and was given a briefing and a walk-through of the scene. The voluntary statements of Deputies Esqueda and Fernandez were considered as part of this analysis.

FACTUAL ANALYSIS

On December 28, 2011, at 4:04 p.m., LASD Deputy Joseph Esqueda responded to a call that a suspicious man was looking into cars in the area of Pimenta Avenue and Oak Street in the City of Bellflower. When Esqueda arrived at that location in a marked patrol car, he saw Joseph Guevara, who matched the description of the suspicious person.

As Esqueda drove near Guevara, he began running through a parking lot on the east side of Pimenta Avenue that bordered Lakewood Boulevard. Esqueda notified Deputy Victor Fernandez of Guevara's action and possible location.

Esqueda circled the area and observed Guevara moments later walking northbound on Pimenta Avenue towards Oak Street. Fernandez drove his patrol vehicle toward Guevara and attempted

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to detain him but Guevara ran north and turned west on Oak Street. Fernandez exited his patrol car and chased Guevara on foot.

Witness [redacted] was in her backyard on Pimenta Avenue when she observed a man peer into her yard over the driveway fence then attempt to open the locked gate. She immediately entered her home to make sure the front door was locked. She looked out her front window and saw a bicycle on her front porch that did not belong to her family. She saw the deputies contact Guevara who then ran from them out of her view on Oak Street.[1]

As Guevara ran, he continued to grab the front waistband of his loose shorts. Guevara ran to mid-block and then hid behind a van parked on the driveway at [redacted] Oak Street. Guevara pulled a silver object from his front waistband so Fernandez broadcast that Guevara was possibly armed. Esqueda followed Guevara in his patrol car and then repeatedly ordered Guevara to show his hands to the deputies and drop his gun.

Guevara turned, pointed his handgun at the deputies and fired. Both deputies returned fire. Guevara continued to fire at the deputies until he lost control of the gun. The deputies stopped firing and approached Guevara. They handcuffed him and called for an ambulance. Neither deputy was injured. Guevara suffered multiple gunshot wounds to his legs, left hand, and left arm.

Witness [redacted] was in her home when she heard someone shouting, "Drop the gun, drop the gun," before hearing gunshots. Witness [redacted] and his [redacted] were standing at the northwest corner of Oak Street and Pimenta Avenue when he saw his [redacted] Guevara run from the deputies down Oak Street. [redacted] saw Guevara holding a silver handgun flat against his chest as he ran. He saw Guevara hide behind a van and saw the deputies give chase before they ordered Guevara to stop and show his hands. [redacted] then heard 15-20 shots.

Detectives recovered a .38 caliber revolver where Guevara was hiding. There were three expended casings inside the gun. Deputies found 20 live rounds in Guevara's pockets along with a small screwdriver, a plastic bag of methamphetamine and a narcotics pipe.

CONCLUSION

California has well settled law that the use of deadly force in self-defense situations or in the defense of others is permissible if it reasonably appears to the person claiming the right of self-defense that he actually and reasonably believed he or others were in imminent danger of great bodily injury or death. People v. Mercer (1962) Cal.App.2d 153.

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[1] [redacted] informed deputies that he found on his porch a gray sweatshirt and black gloves that did not belong to him.

In protecting himself or another, a person may use all force which he believes reasonably necessary and which would appear to a reasonable person, in the same or similar circumstances, to be necessary to prevent imminent injury. California Criminal Jury Instructions 3470.

Where the peril is swift and imminent and the necessity for action is immediate, the law does not weigh into nice scales the conduct of the assailed and say he shall not be justified in killing because he might have resorted to other means to secure his safety. People v. Collins (1961) 189 Cal. App. 2d 575.

The evidence examined shows that Deputies Esqueda and Fernandez tried to detain Joseph Guevara during a burglary from a motor vehicle investigation. Guevara fled, then took up a defensive position behind a parked car while armed with a loaded .38 caliber handgun. Guevara ignored repeated commands to drop his gun and instead fired at the deputies. Deputies Esqueda and Fernandez, in fear for their lives and the life of their partner, responded with deadly force.

We conclude that Deputies Joseph Esqueda and Victor Fernandez acted in lawful self-defense. We are therefore closing our file and will take no further action in this matter.

Very truly yours,

STEVE COOLEY
District Attorney

By

PAUL NUNEZ
Deputy District Attorney
(213) 974-3888

c: Deputy Joseph Esqueda, #[redacted]
Deputy Victor Fernandez, #[redacted]